

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, California 95814**

RH05049272

April 14, 2006

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

SUBJECT OF PROPOSED RULEMAKING

Notice is hereby given that the Insurance Commissioner proposes to amend California Code of Regulations, Title 10, Chapter 5, Subchapter 7.7, Section 2697.6, "Earthquake Policies; Coverage Types and Limits."

AUTHORITY AND REFERENCE

The Commissioner proposes to amend the regulation under the express authority of California Insurance Code Sections 10087, 10089.5(c), 10089.11, 10089.20 and 10089.26(a)(1). The proposed regulation will implement, interpret and make specific the provisions of California Insurance Code Sections 10089, 10089.11(a), 10089.28(b) and 12921.

PUBLIC HEARING

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to this regulation, as follows:

Date and time: **Wednesday, May 31, 2006 at 10:00 a.m.**

Location: **300 Capitol Mall, 6th Floor
Room 635
Sacramento, California 95814**

The hearing will continue on the date noted above until all testimony has been submitted or 4:00 p.m., whichever is earlier.

PRESENTATION OF WRITTEN COMMENTS; CONTACT PERSONS

All persons are invited to present oral and/or written comments at the hearing. Written comments not presented at the hearing must be addressed to the following contact person:

Lisbeth Landsman-Smith, Staff Counsel
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
Telephone: (916) 492-3561
E-mail: landsmanl@insurance.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. If she is unavailable, inquiries may be addressed to the following backup contact person:

Bruce Patton, Senior Staff Counsel
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
Telephone: (916) 492-3560

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact person at her address listed above, no later than 5:00 p.m. on May 31, 2006. Any written materials received after that time will not be considered.

COMMENTS TRANSMITTED BY ELECTRONIC COMMUNICATION

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: landsmanl@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of the contact person for this proceeding using the following facsimile number: (916) 324-1883.

Comments shall be transmitted by one method only and are subject to the deadline set forth above for written comments. Comments sent to other e-mail addresses or other facsimile numbers will not be accepted.

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Person with sight or hearing impairments are requested to notify the contact person for this hearing in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with Insurance Code Section 10089.11(c) and the provisions of Subchapter 4.9, Title 10, California Code of Regulations, in connection with their participation in this matter. Persons interested in inquiring about the appropriate procedures should contact the Office of the Public Advisor at the following address:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, 17th Floor
Sacramento, California 95814
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking shall also be submitted to the contact person for this hearing. Please contact the Office of the Public Advisor for further information.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Earthquake Authority (“CEA”) was established by Legislative enactment of Chapter 8.6 of Part 1 of Division 2 of the Insurance Code (Insurance Code sections 10089.5 et seq.). Certain aspects of the CEA’s operations are identified in Insurance Code Section 10089.11, subdivision (b), requiring the promulgation of regulations to make specific the general provisions specified in those sections. That section specifically provides that the Insurance Commissioner shall promulgate regulations that “define coverage types and limits.”

Pursuant to the foregoing statute, the Commissioner promulgated certain regulations under Title 10, Chapter 5, Subchapter 7.7 [California Earthquake Authority] of the Code of Regulations (CCR). Under existing law, CCR Section 2697.6 (d) mandates that the CEA offer to its policyholders, under base-limits coverage, “Limited Building Code Upgrade” insurance coverage in the amount of ten thousand dollars (\$10,000). In addition, CCR Section 2697.6 (e) authorizes the CEA to issue optional-limits (or “supplemental-limits”) coverage up to the following amounts for (1) Dwelling Policies as follows:

	Option 1	Option 2	Option 3	Option 4
Coverage C (Contents)	\$25,000	\$50,000	\$75,000	\$100,000
Coverage D (Loss of Use)	\$10,000	\$10,000	\$15,000	\$15,000

(2) for Individual Condominium and Cooperative policies as follows:

	Option 1	Option 2	Option 3	Option 4
Coverage C (Contents)	\$25,000	\$50,000	\$75,000	\$100,000
Coverage D (Loss of Use)	\$10,000	\$10,000	\$15,000	\$15,000

and (3) for Renter’s policies as follows:

	Option 1	Option 2	Option 3	Option 4
Coverage C (Contents)	\$25,000	\$50,000	\$75,000	\$100,000
Coverage D (Loss of Use)	\$10,000	\$10,000	\$15,000	\$15,000

The Department proposes to amend Subsections (d) and (e) of Section 2697.6. The purpose of the proposed amendment is to double the amount that the CEA may offer under its base-limits policy for building-code-upgrade coverage and to increase the flexibility of supplemental-limits coverage options for current and future CEA policyholders.

Under the proposed amendment, Subsection (d) will be changed to allow the CEA to offer an additional \$10,000 base-limits building-code-upgrade coverage. In addition, supplemental-limits coverages available under Subsection (e) will be “unbundled” from the currently existing optional packages so that each coverage may be offered independently of the other. All CEA policyholders will be able to choose to increase their coverage to any of the following amounts: Coverage C (Personal Property) \$25,000, \$50,000, \$75,000, or \$100,000; Coverage D (Loss of Use) \$10,000 or \$15,000. Subsections (a), (b), (c), and (f) will not be changed.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

OTHER STATUTORY REQUIREMENTS

There are no other specific statutory requirements applicable to the proposed regulation.

The Commissioner has made the following initial determinations:

Mandates On Local Agencies Or School Districts - Regulatory action imposed herein will result in no program mandates on local agencies or school districts.

Fiscal Impact - The regulation will involve no costs or savings to any State agency, no reimbursable costs to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no nondiscretionary costs or savings to local agencies, and no costs or savings in federal funding to the State.

Impact On Housing Costs - The proposed regulation will have no significant effect on housing costs.

Economic Impact On Businesses - The proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because it amends existing CEA insurance regulations.

Cost Impact On Private Persons Or Entities/Businesses - The Commissioner is aware of only one cost impact that a representative private person or business will incur in reasonable compliance with the proposed action. Insurers participating in the CEA will incur implementation costs. However, these implementation costs will be reimbursed pursuant to Insurance Code Section 10089.28(a).

Assessment Regarding Effect On Jobs/ Businesses - Other than the possible creation of additional jobs to handle increased demand for policies, the regulation will not affect the creation or elimination of jobs in the State of California, the creation of new businesses or the elimination of businesses in the State of California, and the expansion of businesses currently doing business within the State of California.

Impact On Small Business - The proposed amendment will only affect insurance companies and will therefore not affect small business. Pursuant to Government Code section 11342.610(b)(2), insurers are not small businesses. All reinsurers are necessarily insurers.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Commissioner invites public comment on alternatives to this regulation.

TEXT OF REGULATIONS AND STATEMENT OF REASONS

The Commissioner has prepared an initial statement of reasons that sets forth the reasons for the proposed action. The Commissioner also has available all the information upon which this proposed action is based as well as the express terms of the proposed action. The initial statement of reasons and the text of the proposed amendment are available on the Department's website and may be accessed as explained below.

The Commissioner will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address above, which currently includes this notice, the proposed text of the regulation, the initial statement of reasons, and the analyses contained in two CEA Governing Board meeting agenda items relating to the proposed changes to this regulation. Requests for inspection and copying should be directed to the contact person listed above. The final statement of reasons will be made available for inspection and copying once it has been prepared. Requests for the final statement of reasons should also be directed to the contact person listed above.

AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulation, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find, near at the top of the leftmost column, the pull down menu under the heading "Quick Links." Select the "Legal Information" link. On the "Legal Information" page, click on the "Proposed Regulations" link. When the "Search or Browse for Documents for Proposed Regulations" screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter "RH05049272" (the Department's regulation file number for this regulation) in the search field. Alternatively, search using as your search term the California Insurance Code section number of a code section that the regulations implement (for instance, "10089.11"), or

search by keyword ("CEA," for example, or "earthquake"). Then, click on the "Submit" button to display links to the various filing documents.

To browse, click on the "Browse All Regulations" button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear.

AVAILABILITY OF MODIFIED TEXT OF REGULATION

In response to public comment, the Commissioner may determine that changes to the proposed text are appropriate. If the Commissioner makes changes that are sufficiently related to the original proposed text, copies of the changed text (with the changes clearly indicated) will be made available to the public for at least 15 days before the Commissioner adopts the regulation as modified. Please send requests for copies of any changed text to the Contact Person listed above. Copies of the changed text will automatically be sent to all persons who testified or presented comments at the public hearing or submitted written comments during the comment period, and to anyone who requested information regarding the proposal. The Commissioner will accept written comments concerning the changes only, for a period of at least 15 days after the date on which the changed text is made available.

Dated: April 14, 2006

JOHN GARAMENDI
Insurance Commissioner

By: _____/s/
Lisbeth Landsman-Smith
Staff Counsel